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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,214	09/25/2003	Jeremy Hauk	23-0418	8240

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EXAMINER

BOCHNA, DAVID

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,214

Applicant(s)

HAUK, JEREMY

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-11,18 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-28 is/are allowed.
- 6) ☒ Claim(s) 1,6,8-11,18,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 7,22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 22-23, 25 and 26 are objected to because of the following informalities:

Claim 22, line 3 – “the output conduit being” should probably be “the backing member being”.

Claim 22, line 12 – “to about” should probably be “to abut”.

Claim 23, line 3 - “the output conduit being” should probably be “the retainer member being”.

Claim 25, line 15 - “the output conduit being” should probably be “the backing member being”.

Claim 25, line 24 – “to about” should probably be “to abut”.

Claim 26, line 3 - “the output conduit being” should probably be “the retaining member being”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Mueller.

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In regard to claim 21, Mueller discloses A pump discharge conduit system for extending through a wall of a structure to allow a pump to discharge outside of the structure, the pump discharge conduit system comprising:

an output conduit for extending through the wall of the structure for directing discharge from the pump to the outside of the structure, the output conduit comprising an inlet end 1 for positioning in an interior of the structure and an outlet end 19 for positioning outside of the structure;

wherein the output conduit has an exterior surface, the exterior surface having an inlet portion 100 located adjacent to the inlet end and an outlet portion 20 located adjacent to the output end, the exterior surface of the output conduit having a medial portion 9 located between the inlet portion and the outlet portion of the exterior surface;

wherein the exterior surface of the output conduit has an inner intermediate portion 6 between the medial portion and the inlet portion of the exterior surface, and the exterior surface of the output conduit has an outer intermediate portion 14 between the medial portion and the outlet portion of the exterior surface;

wherein each of the inlet 100, outlet 20, and medial 9 portions of the exterior surface is exteriorly threaded; and

wherein each of the inner intermediate portion 6 and outer intermediate portion 14 of the exterior surface is smooth and free of exterior threads.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Hawkins.

In regard to claim 1, Schmidt discloses a pump discharge conduit system for extending through a wall of a structure to allow a pump to discharge outside of the structure, the pump discharge conduit system comprising:

An output conduit **B** being adapted for extending through the wall of the structure, said output conduit comprising an inlet end and an outlet end, said inlet end of said output conduit being adapted for being positioned in an interior of the structure such that said inlet end is in fluid communication with the pump, said outlet end of said output conduit is positioned outside of the structure such that said output conduit is for directing discharge from the pump to the outside of the structure through said outlet aperture, a retaining member **E** being selectively coupled to said output conduit such that said retaining member extends outwardly from said output conduit, said retaining member being adapted for abutting an interior face of the wall of the structure that said output conduit extends through to inhibit sliding of said output conduit with respect to the wall,

a backing member **D** being selectively coupled to said output conduit such that said backing member extends outwardly from said output conduit, said backing member being positioned in spaced relationship to said retaining member such that said backing member is adapted for abutting an exterior face of the wall of the structure, said backing member and said retaining member being adapted for pressing against the wall to inhibit sliding of said output

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conduit with respect to the wall, said backing member D being positioned at an oblique angle to said output conduit, said backing member being adapted for abutting against an oblique exterior face of the wall to allow said backing member to apply force against the wall evenly to prevent said backing member from damaging the wall when said backing member abuts the wall. Schmidt discloses a conduit system as described above, and discloses clamping the retaining member and backing member tightly against the wall in order to make a fluid tight connection, but Schmidt does not disclose the use of a flexible seal. Hawkins teaches using a seal to create an improved fluid tight connection for the pipe coupling passing through the wall 40. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a flexible seal to the coupling of Schmidt, as taught by Hawkins, in order to improve on the sealing properties of the coupling passing through the wall.

In regard to claim 10, said output conduit B comprising an exterior inlet thread, said exterior inlet thread being positioned adjacent said inlet end of said output conduit such that said exterior inlet thread is positioned in an exterior surface of said output conduit, said exterior inlet thread being adapted for being threadably engaged by a female discharge coupling C to allow discharge piping from the pump to be coupled to said output conduit to direct the discharge from the pump into the output conduit.

6. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Hawkins and further in view of Glauber. Schmidt in view of Hawkins discloses a pump discharge pipe system as described above where a discharge element is attached directly to the conduit outlet, but does not disclose that the external conduit outlet is threaded. Glauber teaches adding a thread 15 to the exterior of the conduit outlet so that a discharge element can be

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added or removed to the conduit, allowing the discharge element to be changed without removing the conduit from the wall. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the external conduit outlet to include a thread, as taught by Glauber, so that it would be easier to assemble and disassemble the conduit system through the wall that it is passing through.

In regard to claim 20, further comprising a positioning thread B, said positioning thread being positioned between said inlet end and said output end, said retaining member E, E' threadably engaging said positioning thread such that rotation of said retaining member with respect to said output conduit changes the positioning of said retaining member along said output conduit to permit said backing member and said retaining member to be adjusted to accommodate the wall positioned between said backing member and said retaining member.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Hawkins and further in view of Greene. Schmidt in view of Hawkins discloses a pump discharge pipe system as described above where a discharge element is attached directly to the conduit outlet, but does not disclose that the internal conduit outlet is threaded. Greene teaches adding a thread 26 to the interior of the conduit outlet so that a discharge element 50 can be added or removed to the conduit, allowing the discharge element to be changed without removing the conduit from the wall. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the internal conduit outlet to include a thread, as taught by Greene, so that it would be easier to assemble and disassemble the conduit system through the wall that it is passing through.

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8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Hawkins and further in view of Collie. Schmidt in view of Hawkins discloses a pump discharge pipe system as described above where a discharge element is attached directly to the conduit outlet, but does not disclose that the internal conduit inlet is threaded. Collie teaches adding a thread 26 to the interior of the conduit inlet so that an inlet element can be added or removed to the conduit, allowing the inlet element to be changed without removing the conduit from the wall. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the internal conduit inlet to include a thread, as taught by Collie, so that it would be easier to assemble and disassemble the conduit system through the wall that it is passing through.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Hawkins. Schmidt discloses a backing member as described above, but does not disclose that the backing member is integral with the conduit. However, it would have been obvious to make the backing member integral because one-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

Allowable Subject Matter

10. Claims 7 and 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 25-28 are allowed.

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Response to Arguments

12. Applicant's arguments with respect to claims 1, 6, 8-11, 18, 20-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read "David Bochna", with a stylized flourish at the end.

David Bochna
Primary Examiner
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January 25, 2005